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May 20, 2015

VIA ECF

The Honorable James C. Francis
United States Magistrate Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 18D
New York, New York 10007

Re: *United States ex rel. Kester v. Novartis Pharmaceuticals Corp. et al.*,
Civil Action No. 11-8196 (CM) (JCF)

Dear Judge Francis:

We represent the Relator David M. Kester in this case and—in an effort to put all pending discovery issues before this Court—write to ask the Court to order Novartis to disclose the date by which it will substantially complete its production in response to Relator's current requests in the non-intervened portion of this case. Novartis refuses to do so, and Relator understands that major productions have yet to occur, with only two months left before expert reports are due.

Notably, Relator had intended to ask the Court to order Novartis to substantially complete its production by June 1, 2015—the date by which Relator needs each defendant to substantially complete its production so that he can complete his review of their documents and take depositions before the July 21, 2015 deadline for initial expert reports. *Cf.* Dkt. 421 at 2-3; Dkt. 434 at 2-3. However, Novartis confirmed for the first time Monday that it could not feasibly produce the requested documents by that date.

Alternatively, given the status of the productions to date by Novartis and CVS and their inability to complete their productions by June 1, Relator is not opposed to the Court simply extending the remaining discovery deadlines to allow

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defendants additional time to complete their productions. Relator notes that Judge McMahon already has pushed the “ready for trial” date in the second phase of this case from December 2015 to February 15, 2016. April 7, 2015 Order. Extending the remaining discovery deadlines by two months thus could solve the present issue. While Relator can press forward on the present schedule if defendants produce their documents by June 1, a brief extension would permit defendants to complete their productions by, for example, July 1, 2015. Relator could then quickly finish his review of those productions, take depositions through July and August, and serve his initial expert reports in mid-September—all without any effect on the current trial-ready date.

We are available to discuss this issue at the Court’s convenience, and we greatly appreciate the Court’s attention to this matter.

Respectfully,

A handwritten signature in blue ink, appearing to be 'AH', is written over the typed name.

Andres C. Healy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 20, 2015, a copy of the foregoing via CM/ECF upon the following parties:

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/s/ Andres C. Healy